

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE OR CHANGE

The agency identified below in box 1 provides notice of proposed rule or change pursuant to Utah Code Subsections 63-46a-4(2) and (4). Please address questions regarding information on this notice to the agency. The full text of all rule filings is published in the *Utah State Bulletin* unless excluded because of space constraints. The full text of all rule filings may also be inspected at the Division of Administrative Rules.

State of Utah Division of Administrative Rules (DAR) 4120 State Office Building; 450 North Main PO Box 141007 Salt Lake City, UT 84114-1007 Phone: (801) 538-3218, FAX: (801) 538-1773 State E-mail: <i>asdomain.asitmain.rules</i>	<table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 60%;">DAR file no.:</td><td></td></tr><tr><td>Utah Admin. Code ref. (R no.):</td><td>R156-77</td></tr><tr><td>Date filed:</td><td></td></tr><tr><td>Time filed:</td><td></td></tr><tr><td>Received by:</td><td></td></tr></table>	DAR file no.:		Utah Admin. Code ref. (R no.):	R156-77	Date filed:		Time filed:		Received by:	
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1. Department:	Commerce
Agency:	Occupational and Professional Licensing
Room no., building:	Heber M. Wells Building - 4th Floor
Street address:	160 East 300 South
Mailing address:	PO Box 146741
City, state ZIP:	Salt Lake City UT 84114-6741
Contact person:	Lynn Bernhard
Telephone:	(801) 530-6621
FAX:	(801) 530-6511
Internet E-mail:	lbernhard@utah.gov

(Interested persons may inspect this filing at the above address or at DAR between 8:00 a.m. and 5:00 p.m. on business days.)

2. Title of rule or section (catchline):
Professional Geologist Licensing Act Rules

3. Type of notice:

Proposed rules	<input checked="" type="checkbox"/> New	<input type="checkbox"/> Amendment	<input type="checkbox"/> Repeal
	<input type="checkbox"/> Repeal and reenact		

Other rule types ☐ Change in proposed rule (changes original proposed rule file no.: _____)

4. Purpose of the rule or reason for the change:
The 2002 Legislature enacted Title 58, Chapter 77 (HB 96) requiring licensure for professional geologists. This rule is being enacted to clarify the provisions of that new statute.

5. This rule or change is a response to comments by the Administrative Rules Review Committee.

	Ye	No
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	s	

6. Summary of the rule or change:
This new rule provides the following: definitions, education requirements, experience requirements, examination requirements, renewal cycle-procedures, clarification on exemption from licensure in Subsection 58-77-304(1), unprofessional conduct and seal requirements.

7. Aggregate anticipated cost or savings to:

State budget:	The Division will incur costs of approximately \$100 to print this rule once it is made effective. Any costs incurred will be absorbed by the Division in the current budget.		
Local government:	Proposed rule does not affect local governments.		
Other persons:	Persons seeking licensure as a professional geologist will be impacted. An applicant for licensure is required by rule to complete at a minimum an undergraduate degree. The cost of an undergraduate degree can vary greatly depending on the university attended. After January 1, 2004, an applicant for licensure as a professional geologist must also take and pass the Association of State Boards of Geology (ASBOG) Fundamentals of Geology (FG) and Principles and Practice of Geology (PG) examinations. The cost of both examinations is estimated to cost approximately \$350-\$400. The Division is unable to determine how many persons will be applying for licensure as a professional geologist. The following fees which are identified are as a result of newly enacted statute and not these rules, but the Division wanted all applicants for licensure as a professional geologist to be aware of the licensing fees involved. New application: \$150.00; Renewal fee (every two years): \$120.00; Education/Enforcement Surcharge added to new application and renewal fees: \$15.00.		

8. Compliance costs for affected persons ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Persons seeking licensure as a professional geologist will be impacted. An applicant for licensure is required by rule to complete at a minimum an undergraduate degree. The cost of an undergraduate degree can vary greatly depending on the university attended. After January 1, 2004, an applicant for licensure as a professional geologist must also take and pass the Association of State Boards of Geology (ASBOG) Fundamentals of Geology (FG) and Principles and Practice of Geology (PG) examinations. The cost of both examinations is estimated to cost approximately \$350-\$400. The Division is unable to determine how many persons will be applying for licensure as a professional geologist. The following fees which are identified are as a result of newly enacted statute and not these rules, but the Division wanted all applicants for licensure as a professional geologist to be aware of the licensing fees involved. New application: \$150.00; Renewal fee (every two years): \$120.00; Education/Enforcement Surcharge added to new application and renewal fees: \$15.00.

9. Comments by the department head on the fiscal impact the rule may have on businesses:

In accordance with Title 58, Chapter 77, the Division is proposing this rule to begin administering the new licensing requirements for professional geologists. Included in this rule are the licensing requirements for education, training and testing, all of which will create a business impact for the geology business community. The only cost that can be estimated at this point is the cost of examinations, which is in the range of \$350-\$400. However, the cost of education will depend upon the university attended by the applicant. It is also unclear how many people will seek licensure under this new statute. Ted Boyer, Executive Director

10. This rule or change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required):	Section 58-77-101 and Subsections 58-1-106(1) and 58-1-202(1)(a)		
Federal citations (optional):			

11. This rule or change adds or updates an incorporated reference (submit a copy to DAR):

	X	Ye	No
	S		

Reference title and date of issue or edition: Adds American Geological Institute's Guidelines for Ethical Professional Conduct, April 2, 1999

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the *Utah State Bulletin*. See Section 63-46a-5 and Rule R15-1 for more information.)

Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy): 09/02/2002

A public hearing (optional) will be held on (mm/dd/yyyy): 08/16/2002 at (time): 9:00 a.m.

at (place): 160 East 300 South, Room 428, Salt Lake City, Utah

13. This rule or change may become effective on (mm/dd/yyyy): 09/03/2002

14. Indexing information - keywords (maximum of four, in lower case):

licensing, professional geologist, geology

15. Indexing information - affected industries (two-digit SIC codes):

n/a

16. Attach a WordPerfect document containing the text of this rule or change (filename): R156-77.pro

To the agency: Information requested on this form is required by Sections 63-46a-4, 5, 6, and 10. Incomplete forms may be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

AGENCY AUTHORIZATION

Agency head or designee, and title:	J. Craig Jackson, Division Director	Date (mm/dd/yyyy):	07/15/2002
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R156. Commerce, Occupational and Professional Licensing.

R156-77. Professional Geologist Licensing Act Rules.

R156-77-101. Title.

These rules are known as the "Professional Geologist Licensing Act Rules".

R156-77-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 77, as used in Title 58, Chapters 1 and 77, or these rules:

(1) "ASBOG" means Association of State Boards of Geology.

(2) "Geosciences", as used in Subsection 58-77-302(4)(a), means an earth science degree, which results in sufficient geological knowledge to enable the practice of geology before the public.

(3) "Qualified individual", as used in Section R156-77-302c, means a person who is licensed as a professional geologist in a recognized jurisdiction, or who otherwise meets the requirements for licensure as defined in Sections 58-77-302 and R156-77-302b and R156-77-302c.

(4) "Practice of geology before the public" does not include the following aspects of paleontology:

(a) taxonomy;

(b) biologic analysis of organisms; or

(c) the human context of a site.

(5) "Practice of geology before the public" does not include the following aspects of the practice of anthropology and archeology:

(a) archeological survey, excavation, and reporting;

(b) production of archeological plan views, profiles, and regional overviews; or

(c) investigation and reporting of artifacts or deposits that are modified or affected by past human behavior.

(6) "Principal", as used in Subsection 58-77-102(5), means the licensee assigned to and personally accountable for the production of specified professional geologic projects within an organization.

(7) "Recognized jurisdiction", as used in Subsection R156-77-302d(2), means any state, district or territory of the United

States that issues a license for a professional geologist, and whose licensure requirements include:

(a) a bachelors or post graduate degree in the geosciences from an accredited institution or equivalent foreign education as determined by the International Credentialing Association and the Division in collaboration with the board;

(b) documented qualifying experience requirements similar to the experience requirements found in Subsection 58-77-302(5) and Section R156-77-302; and

(c) passing the ASBOG Fundamentals of Geology (FG) and the ASBOG Principles and Practice of Geology (PG) Examination.

(8) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 77, is further defined, in accordance with Subsection 58-1-203(5), in Section R156-77-502.

R156-77-103. Authority - Purpose.

These rules are adopted by the division under the authority of Subsection 58-1-106(1) to enable the division to administer Title 58, Chapter 77.

R156-77-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-77-302b. Qualifications for Licensure - Education Requirements.

(1) In accordance with Section 58-77-302, the education requirements for graduates of an approved geoscience program are as follows:

(a) an earned bachelors or masters degree in geology from an accredited institution; or

(b) an earned bachelor or post-graduate degree in the geosciences from an accredited institution including the completion of a minimum of 24 semester or 36 quarter hours in upper level or graduate geology courses, which includes one or more of the following subject areas:

(i) structural geology;

(ii) geophysics;

(iii) sedimentology/stratigraphy/paleontology;

(iv) mineralogy/petrology/geochemistry;

(v) engineering geology/environmental geology;

(vi) hydrogeology/hydrology;

(vii) geomorphology/remote sensing;

(viii) economic geology/petroleum geology; and

(ix) field geology.

(2) In accordance with Section 58-1-302, an applicant who has been educated in a foreign country shall submit a course-by-course accreditation evaluation completed by International Credentialing Association to determine program equivalency.

R156-77-302c. Qualifications for Licensure - Experience Requirements.

In accordance with Subsection 58-77-302(5), active professional practice requirements are clarified or established as follows:

- (1) Professional practice shall be obtained after completing the minimum educational requirement for licensure.
- (2) One year of active professional practice shall consist of a minimum of 2,000 hours of geological work experience under the supervision of a qualified individual, or in responsible charge as permitted by law.
- (3) No more than 2,000 hours of active professional practice may be gained in any 12 month period of time.
- (4) Qualifying work engagements consist of a range of activities included in the practice of geology consisting of more than the performance or supervision of geological work activities that are routine, such as routine sampling, laboratory work, or geological drafting, where the elements of initiative, scientific judgment and decision-making are lacking.
- (5) Three years of geologic research or teaching activity in upper division or graduate level geology classes at an accredited university is equivalent to one year of qualifying experience.

R156-77-302d. Qualifications for Licensure - Examination Requirements.

(1) In accordance with Subsection 58-77-302(6), except as otherwise provided in Subsection (2) or(3), the examination requirements for licensure as a professional geologist after January 1, 2004 are established as follows:

(a) the ASBOG Fundamentals of Geology ("FG") Examination with a passing score as recommended by the ASBOG; and

(b) the ASBOG Principles and Practice of Geology ("PG") Examination with a passing score as established by the ASBOG.

(2) The ASBOG FG Examination shall not be required for an applicant who:

(a) has practiced as a principal for five years of the last seven years preceding the date of the license application;

(b) was not required to pass the ASBOG FG Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed; and

(c) has passed the ASBOG PG Examination.

(3) The ASBOG FG and PG Examinations shall not be required for an applicant who:

(a) has practiced as a principal for five years during the last seven years preceding the date of the license application;

(b) has been licensed for 20 years preceding the date of the license application; and

(c) who was not required to pass the ASBOG FG and PG Examination for initial licensure from the recognized jurisdiction the applicant was originally licensed, but was required to pass a predecessor exam established by the recognized jurisdiction.

R156-77-303. Renewal Cycle - Procedures.

In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 31b, is established by rule in Section R156-1-308.

R156-77-304. Exemption from Licensure.

The exemption from licensure in Subsection 58-77-304(1) is defined or clarified as follows: An "employee" or "subordinate", as used therein and elsewhere in Title 58, Chapter 77, or these rules, means an individual who:

- (1) is not licensed as a professional geologist;
- (2) works with, for, or provides professional geologic services on work initiated by a person licensed as a professional geologist; and
- (3) works only under the administration, charge, control, command, authority, oversight, guidance, jurisdiction, regulation, management, and authorization of a person licensed as a professional geologist.

R156-77-501. Unprofessional Conduct.

"Unprofessional conduct" includes:

- (1) submitting an incomplete final plan, specification, report or set of plans to:
 - (a) a client, when the licensee represents, or could reasonably expect the client to consider the plan, specification, report or set of plans to be complete and final; or
 - (b) to a government official for the purpose of obtaining a permit;
- (2) failing as a principal to exercise responsible charge;
- (3) failing as a supervisor to exercise supervision of an employee, subordinate, associate or drafter; or
- (4) failing to conform to the accepted and recognized standards and ethics of the profession including those stated in the "American Geological Institute's Guidelines for Ethical Professional Conduct", April 2, 1999, which is hereby incorporated by reference.

R156-77-601. Seal Requirements.

- (1) In accordance with Section 58-77-601, the seal design and implementation shall be:
 - (a) each seal shall be a circular seal, 1-1/2 inches minimum diameter;
 - (b) each seal shall include the licensee's name, license number, "State of Utah", and "Licensed Professional Geologist";
 - (c) each seal shall be signed and dated with the signature and date appearing across the face of each seal imprint;
 - (d) each original set of final geologic map, cross-section, sketch, drawing, plan, or report prepared, as a minimum, shall

have the original seal imprint, original signature and date placed on the cover or title sheet;

(e) a seal may be a wet stamp, embossed, or electronically produced; and

(f) copies of the original set of plans, specifications, reports, maps, sketches, surveys, drawings, documents and plats which contain the original seal, original signature and date are permitted, if the seal, signature and date is clearly recognizable.

KEY: licensing, professional geologists, geology

2002

58-1-106(1)

58-1-202(1)(a)

58-77-101